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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,097	11/27/2001	Nick (Nicholas Sheppard) Bromer		9382

7590 04/21/2006

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EXAMINER

WALTERS, JOHN DANIEL

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/995,097	Applicant(s) BROMER, NICK (NICHOLAS SHEPPARD)	
	Examiner John D. Walters	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 and 28-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 28, 29 and 31-40 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 5 and 28 – 40 have been examined. Claims 1 – 4 and 6 – 27 have been cancelled by Applicant.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 5, 28, 29, 35 – 38 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlsmith (5,232,231). Carlsmith discloses a brake for roller skates comprising:

- a skate (Figs. 3 – 11);
- a brake (Figs. 3 and 4, items 24, 35, 32, 30, and 41);
- a lifter (Fig. 5, toe portion of item 62);
- said lifter being located above a toe forward of a metatarsal of a user (Fig. 4);
- a brake shoe (Fig. 4, item 30) coupled to said lifter via a linkage (Fig. 4, item 35);
- said brake shoe bearing on at least one wheel (Fig. 4);
- said lifter being coupled to said brake (Fig. 4);
- said lifter pressable upward by a toe motion consisting of an upward rotation of at least one phalanx bone relative to at least one metatarsal bone (Fig. 4);

- said lifter is pivoted about an axis, adjacent to a joint between a metatarsal bone and a phalanx bone, to be moved upward by said toe (Fig. 4);
- said brake actuated by a natural motion of the toe (Fig. 4);
- said brake including a return spring (Fig. 4, item 22).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsmith (5,232,231) in view of TenEyck et al. (5,569,629). Carlsmith discloses a brake for roller skates as described above. Carlsmith does not disclose the composition of his brake shoe. TenEyck, however, discloses high temperature stable continuous filament glass ceramic fibers comprising:

- fiber-reinforced urethane elastomers for the manufacture of brake pads (column 3, lines 46 – 52 and column 7 line 52 to column 8 line 5).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a fiber-reinforced urethane elastomeric material of TenEyck in the brake shoe of Carlsmith in order to provide a material that will perform well at the high temperatures caused by the combination of braking and skating on hot surfaces.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsmith (5,232,231) in view of Hoskin (5,183,275). Carlsmith discloses a brake for roller skates as described above. Carlsmith does not disclose a brake which pivots about an axle which acts upon a wheel not mounted upon said axle. Hoskin, however, discloses brake for in-line roller skates comprising:

- a brake shoe pivoted to rotate about an axle of a first wheel (Fig. 3, items 72r, 106a and 82r);
- said brake bearing against a second wheel (23w).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to combine the multi wheel brake of Hoskin in the brake system of Carlsmith in order to minimize brake wear while providing adequate force for breaking.

Allowable Subject Matter

Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 3/22/2006 have been fully considered but they are not persuasive.

Applicant states, in regards to claim rejections in view of Carlsmith, Hoskins, and TenEyck, that the prior art references of record do not disclose the subject matter of claim 5, as amended.

The subject matter of claim 5, as amended, is disclosed by Carlsmith. See the above rejections.

For this reason, the rejections stand.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Chou (6,485,034) discloses a roller skate assembly;
- Intengan (6,053,511) discloses a non-postural change two feet braking for roller skates;
- Bellehumeur (5,997,015) discloses a brake for inline skates;
- Gatel et al. (5,979,916) disclose an in-line roller skate;
- Johnson (5,924,704) discloses a foot supporting rolling device;
- Strothmann et al. (5,908,197) disclose a braking assembly for an in-line roller skate;
- Gignoux et al. (5,890,724) disclose an in-line roller skate;
- Flatner (5,758,884) discloses a roller blade toe brake;

- Stoughton et al. (5,704,617) disclose an in-line skate brake;
- Perner (5,630,595) discloses a braking device for roller skates;
- Bellehumeur (5,609,346) discloses a toe activated braking system for inline roller skates;
- Oyen et al. (5,575,489) disclose a shock absorbent in-line roller skate;
- O'Donnell et al. (5,527,100) disclose a composite wheel for in-line roller skates;
- Pennestri (5,478,094) discloses a variable braking system;
- Shifrin (5,403,021) discloses a brake assembly for in-line roller skates;
- Donovan et al. (5,203,321) disclose a passive anatomic ankle-foot exerciser;
- Colla (5,143,387) discloses a roller skate brake system having toe actuator within the boot.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

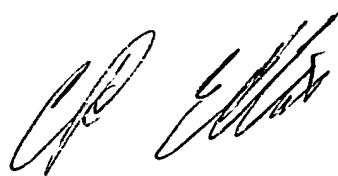
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John D. Walters
Examiner
Art Unit 3618

JDW

CHRISTOPHER P. ELLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600